

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

Hearing Date: July 23, 2021
Hearing Time: 11:00 a.m.
Hearing Place: Olean

In Re:

Joel J. Pedersen
aka Joel Jon Pedersen

Case No.: 20-10241
Chapter: 13

Debtors.

**NOTICE OF MOTION FOR
RELIEF FROM STAY**

PLEASE TAKE NOTICE, that upon the annexed application of Quicken Loans, LLC FKA Quicken Loans Inc. ("Movant") through its attorneys, Davidson Fink LLP, by Megan J. Lyle, Esq., a hearing will be held before the Honorable Carl L. Bucki, Bankruptcy Judge, at the United States Bankruptcy Court, Western District of New York, Cattaraugus County Courthouse, 1 Leo Moss Drive, Olean, New York 14760 on **July 23, 2021 at 11:00 a.m.**, or as soon thereafter as counsel can be heard to consider the motion of movant for an Order pursuant to 11 U.S.C. §362(d)(1) and (2); vacating the automatic stay and allowing petitioner, its successors and assigns, to pursue its statutory remedies with respect to the debtor's property located at 3251 Proctor Road, Wellsville, New York 14895, together with such other and further relief as this Court deems just and proper.

Dated: June 10, 2021

/s/ Megan J. Lyle

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TO:

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UNITED STATES BANKRUPTCY COURT
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Case No.: 20-10241

In Re:

Chapter: 13

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Debtor(s).

MOTION FOR RELIEF FROM AUTOMATIC STAY (REAL PROPERTY)

Quicken Loans, LLC FKA Quicken Loans Inc. ("Movant") hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of the Debtor having an address of 3251 Proctor Road, Wellsville, New York 14895 (the "Property"), for all purposes allowed by law, the Note (defined below), the Mortgage (defined below), and applicable law, including but not limited to the right to foreclose. In accordance with the local Guide to Default Procedures a cover sheet has been filed contemporaneously herewith. In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor on February 12, 2020.
2. A Chapter 13 Plan was confirmed on July 24, 2020.
3. The Debtor has executed and delivered or is otherwise obligated with respect to that certain promissory note in the original principal amount of \$100,957.00 (the "Note"). A copy of the Note is attached hereto as Exhibit A. Movant is an entity entitled to enforce the Note.
4. Pursuant to that certain mortgage (the "Mortgage"), all obligations (collectively, the "Obligations") of the Debtor under and with respect to the Note and the Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit B.
5. All rights and remedies under the Mortgage have been assigned to the Movant pursuant to that certain assignment of Mortgage, a copy of which is attached hereto as Exhibit C.

6. As of June 2, 2021, the outstanding amount of the Obligations less any partial payments or suspense balance is \$112,556.68.

7. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$350.00 in fees, \$188.00 in costs, for a total of \$538.00 incurred. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

8. The following chart sets forth the number and amount of payments due pursuant to the terms of the Note that have been missed by the Debtor as of June 2, 2021:

Number of Missed Payments	From	To	Monthly Payment Amount	Total Amounts Delinquent
<u>4</u>	<u>03/01/2021</u>	<u>06/01/2021</u>	<u>\$933.55</u>	<u>\$3,734.20</u>
<i>Less post petition partial payments (suspense balance):</i>			<i>(\$907.11)</i>	
			<i>Total:</i>	<i><u>\$2,827.09</u></i>

9. Upon information and belief the debtor may at the time of the return date of this motion be in arrears for any subsequent monthly payment then due and owing.

10. Attached hereto as Exhibit D is a post-petition payment history

11. The estimated market value of the Property is \$103,000.00. The basis for such valuation is May 24, 2021, attached hereto as Exhibit E.

12. Movant requests the ability to resume normal servicing of the loan, which may include collections, loss mitigation and foreclosure activities.

13. Movant will notify Chapter 13 Trustee of surplus funds, if any.

14. Cause exists for relief from the automatic stay for the following reasons:

(a) Movant's interest in the Property is not adequately protected. Movant's interest in the collateral is not protected by an adequate equity cushion. The fair market value of the Property is declining and payments are not being made to Movant sufficient to protect Movant's interest against that decline.

(b) Post confirmation payments required by the confirmed plan have not been made to Movant.

(c) Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor has/have no equity in the

Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.

15. That I am an attorney duly admitted to practice before the courts of the State of New York, and the United States Bankruptcy Court Western District and practice with the law firm Davidson Fink LLP, counsel for the Movant in the above-entitled action. I am fully familiar with all facts, circumstances and proceedings herein. I make this affirmation in support of an application for motion for relief.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay for all purposes allowed by law, the Note, the Mortgage, and applicable law, including but not limited allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.
2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.
3. That the Movant be entitled to resume normal servicing of the loan, which may include collections, loss mitigation and foreclosure activities.
4. For such other relief as the Court deems proper.

Dated: June 10, 2021
Rochester, New York

/s/ Megan J. Lyle

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